

08-18-06

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants : Shigeho Ogawa, et al.
For : INFORMATION PLAYBACK APPARATUS, METHOD AND
Serial No. : 09/808,492
Filing Date : March 14, 2001
Examining Attorney : Son, Linh L.D.
Art Unit : 2135
Confirmation No. : 3619

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APPEAL BRIEF OF APPELLANTS

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Sir:

This is an Appeal from the Office Action issued by the Examiner dated January 12, 2006, in the above-identified application, rejecting claims 1-17. A Notice of Appeal was filed on May 12, 2006. This Brief is submitted in accordance with 37 C.F.R. §41.37. Appellants submit

herewith a check in the amount of \$500.00 as payment of the fee. The Commissioner is authorized to charge any additional fee, or credit any overpayment for this paper, to Deposit Account No. 50-0320.

1. **REAL PARTY IN INTEREST**

The real party in interest is Sony Corporation, a Japanese Corporation with offices at 7-35 Kitashinagawa 6-Chome, Shinagawa-ku, Tokyo, 141-0001 Japan,. The assignment of this application is recorded in the United States Patent and Trademark office at Reel 011905; Frame 0132.

2. **RELATED APPEALS AND INTERFERENCES**

Upon information and belief, the undersigned attorney does not believe that there is any appeal or interference that will directly affect, be directly affected by or have a bearing on the Board's decision in the pending appeal.

3. **STATUS OF THE CLAIMS**

The Application was filed with claims 1-5 on March 14, 2001, and assigned Application Serial No. 09/808,492. This application claims the benefit of Japanese Patent Application No. 2000-071382, filed on March 15, 2000, respectively.

The Examiner issued an Office Action on July 1, 2004. In the Office Action, the Examiner rejected claims 1-5 under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,216,228 to Chapman et al. (hereinafter, merely "Chapman").

In response to the Office Action Appellants submitted a response amendment on October 1, 2004 thereby adding the limitation "input by the user" to claims 1, 4 and 5, and adding new claims 6-17.

The Examiner then issued a Final Office Action on January 25, 2005. In the Office Action, the Examiner rejected claims 1-6 under 35 U.S.C. §103(a) as allegedly unpatentable over Chapman. Claims 7-17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Chapman in view of U.S. Publication 2003/0126445 to Wehrenberg (hereinafter, merely “Wehrenberg”). A response to the Final Office Action was filed by Appellants on March 24, 2005 traversing the Examiner’s rejections of the claims.

The Examiner issued an Advisory Action on April 12, 2005, maintaining the rejections recited in the Final Office Action. Appellants submitted a Request for Continued Examination on April 25, 2005.

The Examiner then issued a Non-Final Office Action on July 27, 2005. In the Office Action, the Examiner rejected claims 1 and 3-7 under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,760,915 to deCarmo (hereinafter, merely “deCarmo”). Claims 8-11 and 13-16 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,385,388 to Lewis et al. (hereinafter, merely “Lewis”). Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over deCarmo in view of Lewis. Claims 12 and 17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Lewis in view of U.S. Patent No. 6,035,329 to Mages et al. (hereinafter, merely “Mages”). A response to the Office Action was filed on October 27, 2005 amending the claims and traversing the Examiner’s rejections.

The Examiner then issued a Final Office Action on January 12, 2006. In the Office Action, the Examiner rejected claims 1 and 3-7 under 35 U.S.C. §103(a) as allegedly unpatentable over deCarmo in view of U.S. Patent No. 5,621,456 to Florin et al. (hereinafter, merely “Florin”). Claim 2 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over deCarmo in view of Florin and further in view of Lewis. Claims 8-11 and 13-16 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Lewis in view of Florin. Claims 12 and

17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Lewis in view of Florin and further in view of Mages. A response to the Office Action was filed on March 7, 2006 which argued and traversed the Examiner's rejections to the claims.

The Examiner issued an Advisory Action on April 11, 2006, maintaining the rejections recited in the Final Office Action.

A Notice of Appeal was filed by Appellants on May 12, 2006, from which this Appeal Brief is being filed.

Accordingly, the status of the claims may be summarized as follows:

Claims Allowed:	None.
Claims Rejected:	1-17.
Claims Appealed:	1-17.

The rejected claims 1-17 are set forth in the Appendix attached hereto.

Appellants appeal the Final Rejection of claims 1-17, which constitute all of the currently pending claims in this application.

4. STATUS OF THE AMENDMENTS

Appellants believe that all the submitted Amendments have been entered.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

The citations to Figures and Specification locations are provided immediately following elements of independent claim 1, which is summarized below. However, such citations are provided merely as examples and are not intended to limit the interpretation of the claims or to evidence or create any estoppel.

There are six independent claims (1, 4, 5, 6, 8 and 13) in the instant application at issue in this appeal, and are directed to an information playback apparatus and method by which enjoyment of a DVD can be restricted with certainty. A disk ID of a DVD video whose enjoyment is to be restricted and a password are stored in a corresponding relationship to each other in a flash ROM. When the DVD video of the disk ID stored in the flash ROM is loaded, a controller permits playback of the DVD video only if the corresponding password is inputted.

6. **GROUND S OF REJECTION TO BE REVIEWED ON APPEAL**

Appellants request a pre-appeal brief conference to review the rejection of:

- 1) claims 1 and 3-7 under 35 U.S.C. §103(a) as allegedly unpatentable over deCarmo in view of Florin;
- 2) claim 2 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over deCarmo in view of Florin and further in view of Lewis;
- 3) Claims 8-11 and 13-16 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Lewis in view of Florin; and
- 4) Claims 12 and 17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Lewis in view of Florin and further in view of Mages.

7. **GROUPING OF THE CLAIMS**

Claims 1-52 fall into two separate groups. Group I: claims 1-7; with independent claims 1, 4, 5 and 6. Group II: claims 8-17; with independent claims 8 and 13. The claims of each individual group stand and fall together.

8. ARGUMENTS

The §103 Rejections Should be Withdrawn Because Claim Features are Not Disclosed, Taught or Suggested in the Reference

Specifically, independent claim 1 recites, *inter alia*:

“An information playback apparatus...

wherein the increased values of the identification information are written over the original values of the identification information in the storage control step, and

wherein, if a maximum of identification information is achieved, new identification information is written over an oldest identification information or the new identification information is written over a user-selected replaceable identification information.” (emphasis added)

It is respectfully submitted that the applied combination of deCarmo and Florin does not teach the above-recited features of independent claim 1. Specifically, the Office Action concedes that “[h]owever, deCarmo does not disclose ‘wherein the increased values of the identification information are written over the original values of the identification information in the storage control step, and wherein, if a maximum of identification information is achieved, new identification information is written over an oldest identification information or the new identification information is written over a user-selected replaceable identification information’”. (See Office Action page 4) Appellants respectfully disagree with the assertion that Florin provides the disclosure missing from deCarmo.

The Office Action cites Column 21, lines 1-15 of Florin, which recites “...user is able to view the pix display by category... only marked programs would be displayed on the pix display 381, allowing users to easily add or delete programs in the pix display...”

Appellants submit that deCarmo and Florin, taken alone or in combination, fail to teach or suggest the features of claim 1. Specifically, Appellants submit that there is no teaching or suggestion of an information playback apparatus wherein the increased values of the

identification information are written over the original values of the identification information in the storage control step, and, if a maximum of identification information is achieved, new identification information is written over an oldest identification information or the new identification information is written over a user-selected replaceable identification information,
as recited in claim 1.

Appellants, therefore, respectfully submit that independent claim 1 is patentable.

For reasons similar to those described above with regard to independent claim 1, independent claims 4, 5 and 6 are also believed to be patentable.

Claim 8 recites, *inter alia*:

“A method for controlling playback...

wherein the increased value of said permission condition is written over the original value of the permission condition in storage, and

wherein, if a maximum of the recording medium identification information is achieved, new recording medium identification information is written over an oldest recording medium identification information or the new recording medium identification information is written over a user-selected replaceable recording medium identification information.” (emphasis added)

It is respectfully submitted that the applied combination of Lewis and Florin does not teach the above-recited features of independent claim 8. Specifically, the Office Action concedes that “[h]owever, Lewis does not disclose ‘wherein the increased value of said permission condition is written over the original value of the permission condition in storage, and wherein, if a maximum of the recording medium identification information is achieved, new recording medium identification information is written over an oldest recording medium identification information or the new recording medium identification information is written over a user-selected replaceable recording medium identification information’”. (See Office Action

page 6) Appellants respectfully disagree with the assertion that Florin provides the disclosure missing from Lewis.

The Office Action cites Column 21, lines 1-15 of Florin, which recites "...user is able to view the pix display by category... only marked programs would be displayed on the pix display 381, allowing users to easily add or delete programs in the pix display..."

Appellants submit that Lewis and Florin, taken alone or in combination, fail to teach or suggest the features of claim 8. Specifically, Appellants submit that there is no teaching or suggestion of a method for controlling playback wherein the increased value of said permission condition is written over the original value of the permission condition in storage, and wherein, if a maximum of the recording medium identification information is achieved, new recording medium identification information is written over an oldest recording medium identification information or the new recording medium identification information is written over a user-selected replaceable recording medium identification information, as recited in claim 8.

Appellants, therefore, respectfully submit that independent claim 8 is patentable.

For reasons similar to those described above with regard to independent claim 8, independent claim 13 is also believed to be patentable.

Therefore, Appellants submit that independent claims 1, 4, 5, 6, 8 and 13 are patentable.

CONCLUSION

For the reasons discussed above, claims 1-17 are patentable. It is, therefore, respectfully submitted that the Examiner erred in rejecting claims 1-17, and a reversal by the Board is solicited.

Respectfully submitted,
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APPENDIX I

CLAIMS ON APPEAL

1. (Previously Presented) An information playback apparatus for playing back a recording medium on which image information is recorded, comprising:

first fetching means for fetching identification information, input by a user, used for identification of a recording medium;

second fetching means for fetching a permission condition, input by the user, for permitting playback of the image information recorded on a recording medium;

storage means for storing the identification information fetched by said first fetching means and the permission condition fetched by said second fetching means;

extraction means for extracting the identification information recorded on a recording medium loaded in said information playback apparatus;

first comparison means for comparing the identification information extracted by said extraction means and the identification information stored in said storage means with each other;

third fetching means for fetching a permission condition when the identification information extracted by said extraction means and the identification information stored in said storage means coincide with each other;

second comparison means for comparing the permission condition fetched by said third fetching means and the permission condition stored in said storage means with each other;
and

control means for controlling playback of the image information recorded on the recording medium in response to a result of the comparison by said second comparison means,

wherein said user is able to increase a value of said identification information, input by a user, used for identification of a recording medium and a value of said identification information recorded on a recording medium loaded in said information playback apparatus,

wherein the increased values of the identification information are written over the original values of the identification information in the storage means, and

wherein, if a maximum of identification information is achieved, new identification information is written over an oldest identification information or the new identification information is written over a user-selected replaceable identification information.

2. (Original) An information playback apparatus according to claim 1, wherein the permission condition includes a password.

3. (Original) An information playback apparatus according to claim 1, wherein the permission condition includes a parental level.

4. (Previously Presented) An information playback method for an information playback apparatus which plays back a recording medium on which image information is recorded, comprising:

a first fetching step of fetching identification information, input by a user, used for identification of a recording medium;

a second fetching step of fetching a permission condition, input by the user, for permitting playback of the image information recorded on a recording medium;

a storage control step of controlling storage of the identification information fetched by the processing in the first fetching step and the permission condition fetched by the processing in the second fetching step;

an extraction step of extracting the identification information recorded on a recording medium loaded in said information playback apparatus;

a first comparison step of comparing the identification information extracted by the processing in the extraction step and the identification information whose storage has been controlled by the processing in the storage control step with each other;

a third fetching step of fetching a permission condition when the identification information extracted by the processing in the extraction step and the identification information whose storage has been controlled by the processing in the storage control step coincide with each other;

a second comparison step of comparing the permission condition fetched by the processing in the third fetching step and the permission condition whose storage has been controlled by the processing in the storage control step with each other; and

a control step of controlling playback of the image information recorded on the recording medium in response to a result of the comparison by the processing in the second comparison step,

wherein said user is able to increase a value of said identification information, input by a user, used for identification of a recording medium and a value of said identification information recorded on a recording medium loaded in said information playback apparatus,

wherein the increased values of the identification information are written over the original values of the identification information in the storage control step, and

wherein, if a maximum of identification information is achieved, new identification information is written over oldest identification information or the new identification information is written over a user-selected replaceable identification information.

5. (Previously Presented) A recording medium on which a computer-readable program for information playback for an information playback apparatus which plays back an information recording medium on which image information is recorded is recorded, the program comprising:

a first fetching step of fetching identification information, input by a user, used for identification of an information recording medium;

a second fetching step of fetching a permission condition, input by the user, for permitting playback of the image information recorded on an information recording medium;

a storage control step of controlling storage of the identification information fetched by the processing in the first fetching step and the permission condition fetched by the processing in the second fetching step;

an extraction step of extracting the identification information recorded on an information recording medium loaded in said information playback apparatus;

a first comparison step of comparing the identification information extracted by the processing in the extraction step and the identification information whose storage has been controlled by the processing in the storage control step with each other;

a third fetching step of fetching a permission condition when the identification information extracted by the processing in the extraction step and the identification information whose storage has been controlled by the processing in the storage control step coincide with each other;

a second comparison step of comparing the permission condition fetched by the processing in the third fetching step and the permission condition whose storage has been controlled by the processing in the storage control step with each other; and

a control step of controlling playback of the image information recorded on the information recording medium in response to a result of the comparison by the processing in the second comparison step,

wherein said user is able to increase a value of said identification information, input by a user, used for identification of a recording medium and a value of said identification information recorded on an information recording medium loaded in said information playback apparatus,

wherein the increased values of the identification information are written over the original values of the identification information in the storage control step, and

wherein, if a maximum of identification information is achieved, new identification information is written over an oldest identification information or the new identification information is written over a user-selected replaceable identification information.

6. (Previously Presented) An information playback apparatus for playing back a recording medium on which image information is recorded, comprising:

first fetching means for fetching from a store in said playback apparatus user-programmable viewing permission information, input by a user, for controlling playback from said recording medium;

second fetching means for fetching a permission condition, input by a user, for permitting playback of the image information recorded on said recording medium;

storage means for storing the viewing permission information and the permission condition;

comparison means for comparing the viewing permission information and the permission condition with each other; and

control means for controlling playback of the image information recorded on the recording medium as a function of the comparison means,

wherein said user is able to increase a value of said user-programmable viewing permission information, input by a user, for controlling playback from said recording medium and a value of said permission condition, input by a user, for permitting playback of the image information recorded on said recording medium,

wherein the increased values of the user-programmable viewing permission information and the permission condition are written over the original values of the user-programmable viewing permission information and the permission condition in the storage means.

7. (Previously Presented) The information playback apparatus according to claim 6, wherein the permission condition derived from said recording medium is afforded a higher weighting than the viewing permission information.

8. (Previously Presented) A method for controlling playback of a recording medium comprising:

establishing a permission condition associated with a playback device, as a function of first input by a user;

storing the permission condition;

establishing a recording medium identification for each of one or more recording media, as a function of second input by the user;

storing the recording medium identification for each of the one or more recording media; and

comparing the stored permission condition and the stored recording medium identification for a particular recording medium,

wherein when the permission condition satisfies a predetermined relationship with the recording medium identification, a valid password, input by a user, is required to initiate playback of the particular recording medium,

wherein said user is able to increase a value of said permission condition associated with said playback device and a value of said recording medium identification for each of said one or more recording media,

wherein the increased value of said permission condition is written over the original value of the permission condition in storage, and

wherein, if a maximum of the recording medium identification information is achieved, new recording medium identification information is written over an oldest recording medium identification information or the new recording medium identification information is written over a user-selected replaceable recording medium identification information.

9. (Previously Presented) The method according to claim 8, wherein the permission condition includes a password.

10. (Previously Presented) The method according to claim 8, wherein the permission condition includes a parental level.

11. (Previously Presented) The method according to claim 8, further comprising:
determining an eject condition; and
requiring the user to provide the valid password to initiate playback of the particular recording medium following the eject condition.

12. (Previously Presented) The method according to claim 8, further comprising storing a parental level and password for each of the one or more recording media.

13. (Previously Presented) An apparatus for controlling playback of a recording medium comprising:

means for establishing a permission condition associated with a playback device, as a function of first input by a user;

means for storing the permission condition;

means for establishing a recording medium identification for each of one or more recording media, as a function of second input by the user;

means for storing the recording medium identification for each of the one or more recording media;

means for comparing the stored permission condition and the stored recording medium identification for a particular recording medium; and

means for controlling the playback of the particular recording medium wherein when the permission condition satisfies a predetermined relationship with the recording medium identification, a valid password, input by a user, is required to initiate playback of the particular recording medium,

wherein said user is able to increase a value of said permission condition associated with said playback device and a value of said recording medium identification for each of said one or more recording media,

wherein the increased value of said permission condition is written over the original value of the permission condition in the means for storage, and

wherein, if a maximum of the recording medium identification is achieved, new recording medium identification is written over an oldest recording medium identification or the

new recording medium identification is written over a user-selected replaceable recording medium identification.

14. (Previously Presented) The apparatus according to claim 13, wherein the permission condition includes a password.

15. (Previously Presented) The apparatus according to claim 13, wherein the permission condition includes a parental level.

16. (Previously Presented) The apparatus according to claim 13, further comprising:

means for determining an eject condition,

wherein the means for controlling require the valid password to initiate playback of the particular recording medium following the eject condition.

17. (Previously Presented) The apparatus according to claim 13, further comprising means for storing a parental level and password for each of the one or more recording media.

APPENDIX II

EVIDENCE

None

APPENDIX III
RELATED PROCEEDINGS

None